

ACT 267

H.B. NO. 1198

A Bill for an Act Relating to Control or Eradication Programs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 141, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§141- Control or eradication programs. (a) The department of agriculture shall develop and implement a detailed control or eradication program for any pest designated in section 141-3, using the best available technology in a manner consistent with state and federal law.

(b) For any pest designated by emergency rule as provided in section 141-3, the department shall implement an emergency program using the best available technology in a manner consistent with state and federal law.

§141- Entry of private property to control or eradicate any pests. (a) The department of agriculture shall give at least five days notice to the landowner and the occupier of any private property of its intention to enter the property for the control or eradication of a pest. Written notice sent to the landowner's last known address by registered mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. The notice shall set forth all pertinent information on the pest control program and the procedures and methods to be used for control or eradication.

(b) After notice as required by subsection (a), any member of the department or any agent authorized by the department may enter at reasonable times any private property other than dwelling places to maintain a pest control or eradication program, being liable only for acts beyond the scope of their authority or acts due to negligence. If the entry is refused, the department may bring an action in the appropriate district court to enjoin the landowner from refusing entry and to enforce compliance with this chapter. Upon proper showing, the court shall grant a restraining order or other appropriate relief.”

SECTION 2. Section 141-3, Hawaii Revised Statutes, is amended to read as follows:

“§141-3 [Eradicate pests, etc.] Designation of pests; control or eradication of pests; emergency power. (a) The department of agriculture shall establish by rule, the criteria and procedures for the designation of pests for control or eradication.

(b) The department of agriculture shall, so far as reasonably practicable, assist, free of cost to individuals, in the control or eradication of insects, [blights, scales, and] mites, diseases, noxious weeds, or other pests injurious to vegetation

of value; and in the investigation, suppression, and eradication of contagious, infectious, and communicable diseases among domestic animals; and shall in like manner distribute to points where needed, beneficial insects, [growths,] or pathogens and other antidotes for the [eradication] control of insects, [blights, scales,] mites and diseases or other pests injurious to vegetation of value, and for the control or eradication of vegetation of a noxious character.

(c) Notwithstanding subsection (a), if the department finds the incipient infestation of a pest which is injurious or deleterious or which is likely to become injurious or deleterious to the agricultural, horticultural, aquacultural, or livestock industries of the State without immediate action, it may proceed without prior notice or upon a minimum of forty-eight hours notice and hearing to adopt an emergency rule for the eradication of the pest to be effective for a period of not longer than one hundred eighty days without renewal."

SECTION 3. Section 152-7, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 8, 1989.)

Note

1. Edited pursuant to HRS §23G-16.5.